

APR 07 2006

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ergo, *et al.* Docket No.: EA-001CP1  
Serial No.: 10/688,739 Art Unit: 2876  
Filed: October 17, 2003 Examiner: Edwyn Labaze  
For: Methods Of Temporarily Providing Digital Content To A Customer

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER  
TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT  
UNDER 37 C.F.R. §1.321(c)

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The owners, Jared Ergo and Rachel Avery, of 100% percent interest in the above-identified patent application (U.S. Patent Application 10/688,739) hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on said above-identified patent application that would extend beyond the expiration date of the full statutory term prior U.S. Patent 6,655,580, as the term of said prior patent is defined in 35 U.S.C. §154 and §173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owners hereby agree that any patent so granted on said above-identified patent application shall be enforceable only for and during such period that it and said prior patent are commonly owned. This agreement runs with any patent granted on said above-identified patent application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owners do not disclaim the terminal part of the term of any patent granted on said above-identified patent application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 and §173 of said prior

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Terminal Disclaimer

patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- (i) expires for failure to pay a maintenance fee;
- (ii) is held unenforceable; is found invalid by a court of competent jurisdiction;
- (iii) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321;
- (iv) has all claims canceled by a reexamination certificate;
- (v) is reissued; or
- (vi) is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The terminal disclaimer fee under 37 C.F.R. §1.20(d), which is \$65.00 for this small entity, is included herewith in the form of credit card payment using form PTO-2038.

Respectfully submitted,

April 7, 2006  
Date

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